IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL CONTEMPT PETITION NO. 158/2006
IN
S.B. CIVIL WRIT PETITION NO. 3194/2004

SMT. ARUNA SWAMI Vs. SHRI M.N. SHRINIWASAN & ANR.

Date: 18.07.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Bajrang Lal Sharma, Sr. Advocate
with Ms. Raj Sharma for the petitioner.
Mr. Kamlakar Sharma for the respondent No.1.
Mr. S. Kasliwal for the respondent No.2.

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This contempt petition is directed against the non-compliance of the order dated 25.05.2005 passed by this Court in S.B. Civil Writ Petition No. 3194/2004 titled as Smt. Aruna Swami Vs. Union of India & Another.

The aforesaid writ petition was filed against the notice dated 28.03.2004 passed by the Senior Regional Manager, Hindustan Petroleum Corporation Limited, Jaipur, by which it was pointed out that the petitioner had submitted the certificate of agriculture income dated 28.10.94 subsequent to the date of interview and not at the time of submission of application form and the certificate also does not

depict the financial year for which annual income has been shown.

Having considered the specific averments made in the writ petition and upon careful perusal of the certificate issued by the Tehsildar, Sanganer on 20.10.94, this Court has arrived at a conclusion that it bears the date 20.10.94 and was submitted at the time of interview held on 21.10.94 and the only reason shown in the show cause notice was that the petitioner has filed the income certificate after interview, though this fact was not correct and, therefore, this Court has observed that the certificate issued by the Tehsildar, Sanganer was submitted by the petitioner during the interview and the averment made in the show cause notice through which the petitioner was called upon that it was submitted after the interview, was found false on the face value, therefore, the respondents were accordingly directed to consider the case of the petitioner for allotment of dealership if his case is found in order and the writ petition was disposed of.

It is also not disputed that in the application moved on behalf of the petitioner, liberty was given to the petition to file contempt petition as

in the main order, no specific time for compliance was given by this Court vide order dated 25.05.2005. after seeking liberty, the petitioner has preferred this contempt petition as the order of this Court has not been complied with.

Learned counsel Mr. Kamlakar Sharma, appearing on behalf of respondent-contemner No.1 after tendering unconditional apology, categorically submitted that on examination of the case, it was found that the case of the petitioner for allotment of dealership was not in order. It was found that even though the vigilance report on the basis of which the letter dated 27.08.99 was issued to the Oil Companies, the ground of use of political influence by the petitioner in obtaining the dealership was the main ground but the same had not been mentioned by HPCL in the show cause notice issued on 28.03.2000. It was found that when the recommendations were made by the Oil Selection Boards (for short' the OSB'), Rajasthan in the case of the petitioner, the Chairman of the OSB, Hon'ble G.K. Sharma, J. had made the following remarks while preparing the panel:-

> “I do not agree with this merit panel. Being in minority i.e. in the ratio of 2:1, I have no option except to declare the result of RO on

> the marks given by other two members. Before starting the interview, I was told by Shri Anand Mangal Misra, the other Member, that he has received directions from Hon'ble Petroleum Minister to allot this RO to Smt. Aruna Swami. Shri Narpat Ram Barwar, the other Member, said that he cannot displease the Hon'ble Minister and hence colluded hands with Shri Anand Mangal Misra. Even at the time of giving marks, Shri Anand Mangal Misra consulted mark sheet of other two members and then filled his marks for the second candidate. Beaing a single member in minority for majority decision, I have not power to check the unfairness. Under such circumstances, I have finalized the merit panel, though disagreeing with it."

Since the Chairman has made such remarks, the Vigilance Department conducted inquiry and submitted its report and vide Annexure R-1/2, Under Secretary to the Government of India, Ministry of Petroleum and Natural Gas, through its letter dated 10.01.2006, has informed the Director (Marketing), HPCL, Mumbai and advised to cancel the total selection proceedings in the subject RO dealership as advised earlier by the Ministry vide its letter dated 27.08.99.

Mr. Sharma also referred the letter dated 27.08.99 (Annexure-R-1/1). He further submits that notice dated 24.01.2006 of the petitioner for instituting contempt proceedings has been issued which

was received by the Ministry but even prior to that, the decision has already been communicated to HPCL for canceling the entire selection proceedings vide letter dated 10.01.2006.

Learned counsel Mr. S. Kasliwal, appearing for the respondent Company also supports the averments made by the learned counsel Mr. Kamlakar Sharma, appearing on behalf of the respondent No.1 and tendered unconditional apology and submits that since selection proceedings have been cancelled and the case of the petitioner was also considered in the light of the observations made by this Court and as per the vigilance report, categorical findings were given that political influence was used and decision has been taken to cancel the entire selection process. Even otherwise also, this Court has directed to consider the case of the petitioner if it is found in order and it is not disputed on behalf of the respondent-contemner that show cause notice was issued to the petitioner only on the ground of submission of the agricultural income certificate being not as per format and having been submitted on 28.10.94 i.e. subsequent to the date of interview and as stated by learned counsel Mr. Kamlakar Sharma appearing on behalf of the respondent

No.1 that the HPCL company was duly informed with regard to use of political influence by the petitioner but the same was not incorporated in the show cause notice.

Having considered the rival submissions of the respective parties and upon careful examination of the reply so submitted by the respondent-contemners, as this Court has observed that the income certificate which is alleged to be submitted after the interview, was not correct and it is also admitted by the respondents that the cancellation of the candidature of the petitioner was not only on the ground of of income certificate but the entire selection process has been cancelled and as observed by the Chairman that there is use of political influence and vigilance has submitted detailed report to this effect, in such circumstances, I find no illegality in canceling the entire selection process and since entire selection process itself has been cancelled, the question of consideration of the petitioner does not arise.

In view of the aforesaid observations, no deliberate disobedience on the part of the respondents-contemners is made out.

Consequently, the contempt petition fails and the same is hereby dismissed.

Notices issued stand discharged.

(K.S. RATHORE),J.

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